

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**CHUCK E. WITMER, SR.,
Plaintiff**

v.

**ARTHUR J. GALLAGHER & CO.,
GALLAGHER BASSETT SERVICES,
DEAN SNYDER, and MARTIN ESSIG
and JEFFREY S. SHULTZ,
Defendants**

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**Civil Action No. 1:08-cv-1329
(Chief Judge Kane)**

MEMORANDUM ORDER

Before the Court is a report and recommendation (Doc. No. 22) on Defendants' motion to dismiss count four and to strike paragraphs 25 and 30 (Doc. No. 18) of Plaintiff Chuck E.

Witmer's amended complaint (Doc. No. 15). On July 13, 2009, Defendants objected to Magistrate Judge Blewitt's recommendation that paragraphs 25 and 30 not be stricken, but made no objections to the other findings in the report. (Doc. No. 23.) Plaintiff did not file a response.

Upon *de novo* consideration of Defendants' objections, the Court will adopt the report and recommendation in full. As stated in Magistrate Judge Blewitt's report and recommendation, motions to strike are disfavored because they may cause prejudice to one of the parties, and the decision whether to strike a pleading is left to the wide discretion of the trial court. Krisa v. Equitable Life Assur. Soc., 109 F. Supp. 2d 316, 319 (M.D. Pa. 2000). The Court here will exercise its discretion not to strike Plaintiff's complaint because paragraphs 25 and 30 could provide support to Plaintiff's claim that he was discriminated against and subjected to a hostile work environment because of his age. Accordingly, the report and recommendation will be adopted.

AND NOW, this 31st day of August, 2009, **IT IS HEREBY ORDERED** that Magistrate Judge Blewitt's report and recommendation (Doc. No. 22) is **adopted**. Defendants' motion to dismiss and strike (Doc. No. 18) is granted in part and denied in part. Count four of Plaintiff's amended complaint is dismissed but paragraphs 25 and 30 of Plaintiff's amended complaint are not stricken. This case is recommitted to the Magistrate Judge for further proceedings.

S/ Yvette Kane
Yvette Kane, Chief Judge
United States District Court
Middle District of Pennsylvania